



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2017-0385; FRL-9966-20-Region 4]**

**Air Plan Approval**

**SC: Multiple Revisions to Air Pollution Control Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the South Carolina State Implementation Plan (SIP) to revise miscellaneous rules covering air pollution control standards. EPA is approving portions of SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on the following dates: October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, August 12, 2015, July 27, 2016, and November 4, 2016. These actions are being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective **[Insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-

0385 at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Wong can be reached via telephone at (404) 562-8726 or via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, August 12, 2015, July 27, 2016, and November 4, 2016, SC DHEC submitted SIP revisions to EPA for approval that involve changes to South Carolina's SIP regulations to make administrative and clarifying

amendments, revise regulations, and correct typographical errors. These SIP submittals make changes to several air quality rules in South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.). The changes EPA is approving into the SIP in this action modify portions of Regulation 61-62.5, Standard No. 1 - *Emissions From Fuel Burning Operations* and Regulation 61-62.5, Standard No. 4 - *Emissions From Process Industries*. EPA is not acting on other revisions that are included in these submittals. EPA will act on those changes in separate actions.

## **II. Analysis of South Carolina's Submittals**

### **A. Regulation 61-62.5, Standard No. 1 - *Emissions from Fuel Burning Operations***

South Carolina is amending multiple sections at Regulation 61-62.5, Standard No. 1 - *Emissions from Fuel Burning Operations*. The July 18, 2011, submittal revises subparagraph C of Section I –*Visible Emissions* by excluding natural gas fired units from maintaining an information log to determine periods of startup and shutdown. The August 12, 2015, submittal further revises the subparagraph adding propane fired units to the log keeping exception and corrects typographical errors in the Standard.

CAA section 110(l) provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the CAA. SC DHEC considered CAA section 110(l) in making these changes and explains in a letter dated December 30, 2016, that the state expects no increase in actual emissions as a result of exempting units burning only natural gas and propane fuels from maintaining logs because there are no opacity concerns with these type of fuels during startup, shutdown, or normal

operations. Because natural gas and propane contain relatively minor amounts of the constituents (particulate matter and sulfur) that could result in visible emissions, this change to subparagraph C will not result in any increase in emissions and will not affect the State's ability to attain or maintain state or federal standards or reasonable further progress.

The August 8, 2014, submittal makes the following changes: 1) clarifies sulfur dioxide maximum allowable discharge limits at Section III –*Sulfur Dioxide Emissions* and 2) makes administrative and clarifying edits throughout Standard No. 1. The revision in Section III –*Sulfur Dioxide Emissions* streamlines the requirement by setting a maximum sulfur dioxide (SO<sub>2</sub>) limit of 2.3 pounds per million British thermal units (lb/MMBtu) from fuel burning operations. The current approved Standard sets two SO<sub>2</sub> limits, 2.3 lb/MMBtu or 3.5 lb/MMBtu across various classification categories. Therefore, this revision would streamline the rule to the lower of the two limits allowed for such sources. Lastly, this submittal makes administrative and clarifying edits in Section I –*Visible Emissions*, Section III –*Sulfur Dioxide Emissions*, Section IV –*Opacity Monitoring Requirements*, and Section VI –*Periodic Testing*.

The November 4, 2016, submittal makes typographical corrections under Section IV –*Opacity Reporting Requirements*. EPA has reviewed the aforementioned changes to South Carolina's Regulation 61-62.5, Standard No. 1 and is approving the changes into the SIP pursuant to CAA section 110.

**B. Regulation 61-62.5, Standard No. 4 - *Emissions from Process Industries***

South Carolina is amending multiple sections at Regulation 61-62.5, Standard No. 4 - *Emissions from Process Industries*. The October 1, 2007, submittal removes Section IV –*Portland Cement Manufacturing* from the SIP. This rule contains particulate matter (PM)

emission limits for cement kilns with a production rate of up to 120 tons per hour and it establishes a 20 percent allowable stack opacity limit for certain components of Portland cement plants. SC DHEC states that there are no Portland cement plants operating at 120 tons per hour or less in the State because it is not economically feasible. SC DHEC asserts that removing this rule would not create a relaxation as there are no applicable sources subject to this regulation. Additionally, should such a source start operation, it would be subject to more stringent PM emissions limits in New Source Performance Standards (NSPS) subpart F (*Standards of Performance for Portland Cement Plants*).

The July 18, 2011, submittal amends Section V –*Cotton Gins* by removing established specific emission limits based on production rate (output) of bales of cotton per hour and replacing that with specific, measurable performance requirements and operating standards. SC DHEC considered CAA section 110(l) in making this change. SC DEHC explains that the rule development is based on best management practices outlined in the USDA’s *Cotton Ginners Handbook*, staff experience with effective emission reduction techniques, the review of other state regulations on cotton gins, and several discussions with the affected industry. The new rule assures a greater degree of control of these emissions than that which would result from the existing process weight rate curve and also allows the state to more effectively determine compliance. The revised rule requires enforceable control of emissions from specific point sources in the ginning process rather than an allowable emission rate, and it establishes requirements to minimize fugitive emissions from various sources at cotton ginning facilities. The revised rule also sets applicable requirements for good housekeeping practices in the gin yard, weekly monitoring of control efficiency, recordkeeping, and reporting. The revised

regulation will provide for improved emissions control through practicably enforceable control of emissions, use of state of the art pollution control devices, and minimization of fugitive emissions. The June 17, 2013, submittal makes a subsequent typographical correction to Section V.

The August 8, 2014, submittal makes the following changes: 1) removes a PM emissions limit at Section III –*Kraft Pulp and Paper Manufacturing*; 2) revises the frequency required for reporting excess emissions at Section XI –*Total Reduced Sulfur Emissions of Kraft Pulp Mills*; 3) removes periodic testing requirement for Total Reduce Sulfur (TRS) at Section XII –Periodic Testing; and 4) makes administrative and clarifying edits throughout Standard No. 4. At Section III, the submittal removes the table column “Maximum Allowable Emissions of PM in pounds/equivalent Ton of Air Dried, Unbleached Pulp Produced” and retains the “Maximum Allowable Stack Opacity.” SC DEHC asserts that this will not result in a relaxation of emission limits because the subject sources are covered under more stringent PM limits under the National Emission Standards for Hazardous Air Pollutants (NESHAP) (subpart S - *National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry*). Additionally, the word “opacity” replaces “rate of emissions.”

At Section XI, the August 8, 2014, submittal revises the required excess emissions reporting frequency in subparagraph D.3. from quarterly to semi-annual. SC DHEC considered CAA sections 110(l) and 193 in making the revision and asserts changing reporting from quarterly to semi-annual will not affect the level of emissions or compromise the national ambient air quality standards. SC DHEC cites to several Federal and state regulations that address excess emissions reporting, including NSPS subpart BB *Standards of Performance for*

*Kraft Pulp Mills*; South Carolina Regulation 61-62.5, Standard No. 4 Section XI(D)(3) *Total Reduced Sulfur (TRS) Emissions of Kraft Pulp Mills*; South Carolina Regulations 61-62.1, Section II(J)(2) *Permit Requirements*; and South Carolina Regulation 61-62.70 *Title V Operating Permit Program*.

At Section XII, the August 8, 2014, submittal removes the periodic testing requirement for TRS at Kraft pulp mills.<sup>1</sup> SC DHEC states that most sources are required to test under NSPS or NESHAP rules. The few sources that are not required to test have enough historical test data to develop an approvable operating range which can be handled during the permitting process. Additionally, the S.C. Pollution Control Act (48-1-50, Powers of the Department) makes provision for the SC DHEC to ask for a source test and permits are often drafted with language allowing the SC DEHC to ask for source tests. Therefore, the requirements will be no less stringent than what is allowed through current regulatory and permitting authority to review testing requirements.

Lastly, the August 8, 2014, submittal makes minor typographical, renumbering, and clarifying edits to Standard No. 4 in Section II –*Sulfuric Acid Manufacturing*, Section V –*Cotton Gins*, Section XI –*Total Reduced Sulfur Emissions of Kraft Pulp Mills*, and Section XII –*Periodic Testing*.

The July 27, 2016, submittal revises Section VIII –*Other Manufacturing* by excluding Kraft Pulp and Paper Manufacturing facilities. This Section sets PM emission for source categories not specified elsewhere in Standard No. 4. The revision to exclude Kraft Pulp and

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<sup>1</sup> SC DHEC's July 18, 2011, submittal makes changes to TRS in Section XII. The August 8, 2014, submittal, if approved, would supersede the 2011 revision.

Paper Manufacturing facilities aligns with the August 8, 2014, revision, as previously discussed in this notice. The submittal also makes minor typographical, renumbering, and clarifying edits to Section XII –*Periodic Testing*.

EPA has reviewed the aforementioned changes to South Carolina’s Regulation 61-62.5, Standard No. 4 and is approving the revisions into the SIP pursuant to CAA section 110.

### **III. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61-62.5, Standard No. 1 - *Emissions From Fuel Burning Operations*, effective September 23, 2016, which makes administrative and clarifying revisions for consistency, removes log reporting requirements, revises monitoring requirements, and Regulation 61-62.5, Standard No. 4 - *Emissions From Process Industries*, effective June 24, 2016, which makes administrative and clarifying revisions for consistency, removes specific emission rates, and reporting requirements. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>2</sup> EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

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<sup>2</sup> 62 FR 27968 (May 22, 1997).

#### **IV. Final Action**

EPA is approving the aforementioned changes to the South Carolina SIP, submitted on October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, August 12, 2015, July 27, 2016, and November 4, 2016 because they are consistent with the CAA and federal regulations. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40

CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this direct final action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the South Carolina portion of the bi-state Charlotte Area. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C.

804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 4, 2017.

A. Anne Heard,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart PP—South Carolina**

2. Section 52.2120(c) is amended by:

a. Revising the entries under Regulation No. 62.5, *Standard No. 1*, for “Section I,” “Section III,” and “Section VI,”

b. Revising the entries under Regulation No. 62.5, *Standard No. 4*, for “Section II,” “Section III,” “Section IV,” “Section V,” “Section VIII,” “Section XI,” and “Section XII” to read as follows:

**§ 52.2120 Identification of plan.**

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(c) \* \* \*

**AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Federal Register Notice</b>
**	**	*	*	*
<b>Standard No. 1</b>	<b>Emissions from Fuel Burning Operations</b>			
Section I	Visible Emissions	9/23/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
**	**	*	*	*

Section III	Sulfur Dioxide Emissions	9/23/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
**	**	*	*	*
Section VI	Periodic Testing	9/23/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
**	**	*	*	*
<b>Standard No. 4</b>	<b>Emissions From Process Industries</b>			
**	**	*	*	*
Section II	Sulfuric Acid Manufacturing	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
Section III	Kraft Pulp and Paper Manufacturing Plants	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
Section IV	Portland Cement Manufacturing	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
Section V	Cotton Gins	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
**	**	*	*	*

Section VIII	Other Manufacturing	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
**	**	*	*	*
Section XI	Total Reduced Sulfur Emissions of Kraft Pulp Mills	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
Section XII	Periodic Testing	6/24/2016	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]
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